IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 3294 OF 2003

Mr.Indravadan Shah ... Plaintiff

versus

Daksha Rajendra Shah ....Defendant

...

Ms.Mamta A. Shah for the plaintiff.

None for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 11th January 2005.

P.C.:

1. Heard the learned counsel for the plaintiff.

2. The plaintiff has filed on record affidavit of service sworn in by S. Rane, bailiff in the office of Sheriff of Bombay. As per the said affidavit, summons was served on the defendant on 10th January 2005. Despite service of writ of summons, defendant has not filed an appearance. Hence, plaintiff is

entitled to a decree under sub rule (3) of Rule 2 of Order 37 of the Code of Civil Procedure read with Rule 226 of the Bombay High Court (Original Side) Rules.

3. The plaintiff lent and advanced to the defendant a sum of Rs.2,50,000/- in the manner narrated in the plaint. By a writing dated 21st January 2001, the defendant agreed to repay to the plaintiff a sum of Rs.2,50,000/- together with interest at 18% p.a. The plaintiff has filed on record the original writing as also the other documents. The documents are taken on record and marked Exhibit A colly. Since the defendant has not filed an appearance, there is no reason to disbelieve the case of the plaintiff and the documents produced by the plaintiff on record. Hence, suit of the plaintiff is decreed as prayed in the plaint.

4. Issue Court fee refund certificate as per rules.

D.G. KARNIK, J